

REMARKS/ARGUMENTS

Reconsideration and allowance of all the claims of record are respectfully requested. Attached hereto is an Information Disclosure Statement for consideration by the Examiner.

Claims 1, 2, 3, 5-7, 11, 12, 14, 15 and 18 have been amended and new claims 19-37 have been added to ensure that the applicants' invention is appropriately protected.

The currently pending claims 1-18 have been rejected on only two grounds: 1) claims 7-9 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the "written description" requirement of Section 112, and 2) claims 1-6 and 10-18 stand rejected on obviousness-type double patenting grounds in light of applicants' previously issued U.S. Patent No. 6,658,202.

Turning first to the non-statutory double patenting rejection, in order to obviate the Examiner's obviousness-type double patenting rejections, the applicants submit herewith an appropriate terminal disclaimer. As noted by the Examiner, a timely filed terminal disclaimer complies with 37 C.F.R. §1.321(c), one may be used to overcome a non-statutory double patenting rejection. See 37 C.F.R. §1.130(b).

Finally with respect to the rejection of claims 7-9 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement, claim 7 has been amended to broadly reference processing circuitry being "operable to edit image-related data." Although the terminology "edit" is not expressly utilized in the specification, it is well settled that the written description requirement may be satisfied

without utilizing the exact same terminology *in haec verba*. See *Kao Corp. v. Unilever United States, Inc.*, 78 U.S.P.Q. 1257, 1260 (Fed. Cir. 2006). The written description requirement is fully met if the disclosure conveys to one skilled in the art that the inventors were in possession of the later claimed subject matter at the time the subject application was filed.

As will be appreciated by those skilled in the art, editing operations are clearly disclosed in the original application specification. For example, page 10 of the original specification states that:

[i]n one embodiment of the present invention, a miniature keyboard is utilized by a user to associate notes with an identified image, change the name of files, or to selectively create directories identifying where the user desires to move data. ...Alternatively (or additionally, if desired), an LCD display may be utilized for visually depicting, for example, a file name or subdirectory to permit the user to selectively delete undesirable pictures, which also may be displayed for the user to review.

It would be apparent to those skilled in the art that associating notes with an identified image, changing the names of files, selectively deleting undesirable pictures are all well recognized editing operations.

Accordingly, the applicants submit that the original disclosure fully supports the claimed language of “edit[ing] image-related data” as is set forth in amended claim 7 and newly added claim 24.

In view of the foregoing amendments and remarks, the applicants believe that all the claims of record are in condition for allowance and an action to that end is earnestly

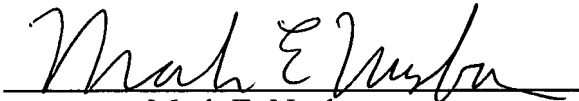
BATTAGLIA et al.
Appl. No. 10/629,905
October 31, 2007

solicited. If any issues remain to be resolved, the Examiner is urged to contact the applicants' attorney at the telephone number listed below.

Early and favorable examination are respectfully requested.

Respectfully submitted,

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**CERTIFICATE OF AMENDMENT
OF THE
RESTATED CERTIFICATE OF INCORPORATION
OF
SMARTDISK CORPORATION**

August 9, 2007

SmartDisk Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "*Company*"), does hereby certify as follows:

- FIRST:** The name of the Company is SmartDisk Corporation.
- SECOND:** Article First of the Restated Certificate of Incorporation of the Company is hereby amended to read as follows:
- "The name of the Corporation is SMDK Corp."
- THIRD:** The Board of Directors of the Company duly adopted resolutions setting forth the above-referenced amendment, declaring such amendment to be advisable, and calling for a vote of the stockholders of the Company on such amendment.
- FOURTH:** The stockholders of the Company duly approved the above-referenced amendment at a Special Meeting of the Company's stockholders held on July 3, 2007.
- FIFTH:** The above-referenced amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

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